## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:06cv43

TAMRA DUNCAN,	)
Plaintiff,	)
Vs.	) JUDGMENT
SPECIAL METALS CORPORATION;	) )
SPECIAL METALS WELDING PRODUCTS COMPANY d/b/a SPECIAL	)
METALS CORPORATION d/b/a SPECIAL	)
METALS CORPORATION,	)
Defendants.	)
	<i>)</i>

THIS MATTER having come before the court on defendant Special Metals Corporation's Motion to Dismiss (#8) under Rule 12(b)(6), Federal Rules of Civil Procedure, and the court's own Motion to Dismiss for abuse of process, and it appearing that this action is in all material respects duplicative of the action filed in 5:05cv225, which is now pending in this court, as shown in the Memorandum of Decision filed contemporaneously herewith,

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that defendants' Motion to Dismiss is denied without prejudice, and the court's own Motion to Dismiss is **GRANTED** and this action is **DISMISSED WITHOUT PREJUDICE** in deference to the first filed action in 5:05cv225.

Signed: September 19, 2006

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Dennis L. Howell

United States Magistrate Judge